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**The Forest Rights Act and the Politics of the Local in a South Indian
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The Forest Rights Act and the Politics of the Local in a South Indian Hill Region

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Abstract

The Forest Rights Act, 2006 (FRA), has been hailed as a landmark legislation that empowers **local** communities by giving individual as well as community rights to forest-dwelling peoples. By doing so, the FRA has also been seen as a watershed in democratising forest governance in India. Notwithstanding its emancipatory potential, the implementation of the FRA has been mired by conflicts regarding who the beneficiaries can be, i.e. who are genuinely local. Although the Act clearly specifies the criteria for both tribals (adivasis) and non-tribals (other traditional forest dwelling communities) making claims, in practice significant contestations and conflicts exist around the claim making process.

We focus in this paper on the politics of the local vis-à-vis the FRA in Gudalur, a hill region of South India. We argue that the law is not as an immutable category but rather a political instrument that various groups use to assert their identities and political imaginaries. The FRA requires that claimants are either members of Scheduled Tribe (indigenous) communities or can prove three-generations of residence in forestlands. Consequently, in making claims to forestlands, political actors in Gudalur variously contest what it means to be (and become) indigenous, where and how forest boundaries are demarcated and who can be deemed as legitimate arbiters of rights-claims. By focusing on the politics around the FRA, we pay specific attention to how competing imaginations of the local are mobilized and what the consequences of this are in terms of the social and ecological landscape of the region.

Keywords: Forest Rights Act, Local Identities, Politics of Contestation, Rights

The Forest Rights Act and the Politics of the Local in a South Indian Hill Region

On 15th December, 2014, over 2,000 adivasis,¹ under the banner of a local adivasi organisation, took to the streets of Gudalur town demanding the implementation² of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – henceforth referred to as the Forest Rights Act (FRA) -- an act aimed at recognising the rights of traditional forest dwelling communities. By planning this protest and calling upon only adivasis to attend, the organisation took the position that, in Gudalur, the FRA was applicable only to adivasis. A few years prior to this, a group of NGOs, one of which supported the adivasi organisation, sought to route the claim-making process through exclusively adivasi gram sabhas.³ They did this due to their concern that having non-adivasis on the gram sabha would leave scope for them to usurp the claim-making process. This position was then endorsed by the state machinery when the district collector at the time issued a government order (GO) sanctioning the formation of such gram sabhas.⁴

Other political actors in Gudalur (on behalf of other communities as well), have used the FRA to stake their claims to land in Gudalur. In many villages around the town of Devala, a mass organisation of agricultural workers that represents the interests of small-scale farmers and landless labourers formed gram sabhas consisting of both adivasi and non-adivasi members. In the Masinagudi area to the east of Mudumalai Tiger Reserve, local activists challenged the expansion of the elephant corridor by way of land acquisition insisting that rights should first be settled under the FRA.

We focus in this paper on the politics of the local vis-à-vis the FRA in Gudalur, a hill region of South India. We argue that the law is not as an immutable category but rather a political instrument that various groups use to assert their identities and political imaginaries.

The FRA requires that claimants are either members of Scheduled Tribe (indigenous) communities or can prove three-generations of residence in forestlands. Consequently, in making claims to forestlands, political actors in Gudalur variously contest what it means to be (and become) indigenous, where and how forest boundaries are demarcated and who can be deemed as legitimate arbiters of rights-claims. By focusing on the politics around the FRA, we pay specific attention to how competing imaginations of the local are mobilized and what the consequences of this are in terms of the social and ecological landscape of the region.

The FRA: Power and Politics

To understand the complex nature of forest governmentality vis-à-vis the FRA and, more specifically, the tension between the state's technologies of power and the people's capacity for politics, it is necessary to look back at the making of the FRA. The FRA, as an idea, emerged from amongst activists as a response and solution to evictions that forest-dwelling communities have faced for decades. In 2002, when the Ministry of Environment and Forests (MoEF) ordered large-scale evictions of forest-dwelling communities across the country, people's movements protested collectively. A number of these people's movements then came together under the banner of the Campaign for Survival and Dignity (CSD). More than a decade earlier in 1990, the MoEF had issued a set of six circulars that (amongst other things) directed states to regularise all pre-1980 settlements on forest lands (Rajashekhar 2012).⁵ However, as is often the case with government directives, these orders were never fully operationalised. Hence, CSD at first demanded the implementation of these GOs, a demand that later became a struggle for a new law. The passing of the FRA, in other words, was seen by activists as an enabling tool in their

wider struggle for social change. Once the struggle for forest rights became a struggle for a new law, it came under the purview of the state.

As Rajashekhar (2012) and Vaidya (2013) have illustrated, the original forest rights bill went through many drafts with different actors, i.e government departments, political parties, political activists and conservationists, each trying to leave their mark on it. The subsequent evolution of the FRA was a politically fraught process which involved the conciliation of numerous competing demands. Amongst these, the two most contentious issues in the bill were the cut-off date from which communities would be granted forest rights and whether the act should apply only to adivasis or to non-adivasis as well. While it is outside the scope of this paper to discuss the various debates that took place on these issues, what we do wish to point out is that the resultant law was as much a result of the political leverage possessed by the various actors involved in the drafting process as it was a synthesis of the positions put forward by competing constituencies. The final decision regarding the cut-off date — requiring non-adivasis to demonstrate three generations of residence in order to claim rights — was made in haste because some actors, most notably the Ministry of Tribal Affairs (MoTA), consistently objected to the inclusion of non-adivasis in the Act. It is this three generation criterion that some activists and scholars have strongly criticised (Sarin 2014), arguing that it skews the implementation of the Act in favour of an adivasi constituency. Nonetheless, the politics of the drafting process contributed to the creation of the Other Traditional Forest Dweller (OTFD) category, which applied to non-adivasis who could prove 75 years of residence (Vaidya 2013). For our purposes here, it is adequate to say that the distinction pertaining to residential requirements of adivasis and non-adivasis led to fierce debates about entitlements under the Act and situatedness in given localities.

The Three Actors

The FRA, from a black letter law perspective, provides the legal framework through which the state is meant to govern forest dwellers and forests. Well-defined procedures exist at multiple scales through which claims can be made and verified. The rules of the FRA themselves prescribe only that the FRA is to be implemented through the gram sabha and committees at the block, district and state levels. However, in practice, civil society organisations have cited both the unwillingness as well as the lack of awareness of the state bureaucracy as reasons for their mediating role in the implementation of the Act. In Gudalur, there are multiple sets of non-state actors who have each read and used the law differently. In what follows, we detail how three non-state actors in Gudalur have made use of the law and how the state has positioned itself.

Adivasi Group and NGOs

In 2008, a group of NGOs from across Nilgiri District of Tamil Nadu came together to collectively strategise about how to implement the FRA.⁶ This group consisted of both NGOs working on adivasi welfare as well as international conservation organisations. This group played the role of creating awareness about the Act through trainings conducted for the administration. They also jointly constituted a District Level Coordination Committee to oversee the implementation process and ensure that procedures of the Act were followed.

These NGOs had a unique interpretation of the provisions of the Act. Under the FRA, the gram sabha is the primary body responsible for processing claims at the most decentralised local level. Section 2(g) of the Act defines the gram sabha as a body consisting of ‘all adult members in a given village’, the exception being in areas where panchayats do not exist and where traditional bodies can act as substitutes for village gram sabhas. However, the above-mentioned

NGOs felt the need to modify this definition. They constituted gram sabhas which consisted exclusively of adivasi members. Rather than constituting these gram sabhas at the village panchayat level, they clustered groups of hamlets together such that there were approximately 150 families under each group. In Gudalur, these gram sabhas overlap with the administrative units used by the adivasi organisation that we described in the introduction. The District Collector sanctioned these adivasi-only gram sabhas and each panchayat also passed a resolution recognising the gram sabhas under them. This marked the birth of what became known as Special Tribal Gram Sabhas in the Nilgiris.⁷

These NGOs were concerned that allowing non-adivasis on the gram sabhas would compromise the claim-making process.⁸ They argued that the in-migration of non-adivasi settlers had resulted in the dispossession of adivasis. Given this history, locally specific hierarchies and the ensuing power dynamics between adivasis and non-adivasis necessitated limiting the membership of the gram sabhas exclusively to adivasis. They also argued that even autochthonous, non-adivasi groups, such as the Moundadan Chetties do not qualify as having ‘bonafide livelihood needs’ from forest lands.

Large-scale migration of non-adivasis into Gudalur can be traced back to the mid-19th century. At that time, much of the area was under the control of the Nilambur Kovilagam, a royal family from neighbouring Kerala, who leased out land for the establishment of first coffee and then tea plantations primarily to British capital (Krishnan 2009). The emergence of this plantation economy required labour from the plains. The next significant wave of migration was in the 1950s when the post-independence state launched the ‘Grow More Food’ campaign to contain the effects of famine (Menon et al. 2013). During this time smallholders from the

neighbouring state of Kerala were encouraged to cultivate food crops and develop the agricultural economy of independent India (Menon et al. 2013). The last major wave of migration into Gudalur was after the Sirimavo-Sastri Pact in 1964, a pact that resulted in the repatriation of over five lakh Tamils from the plantations of Sri Lanka to various parts of South India (Adams 1989).

In addition to a general concern about the in-migration of non-advasis, members of these NGOs expressed particular concern about this latest wave of migration. A number of the Tamil repatriates had been absorbed on either government or private estates and received little by way of land, making them a significant constituency vying for land rights. Members of the local adivasi organisation, while sympathetic to their struggle for land rights, were concerned that they would use the FRA to make false claims despite the fact that they had not been in Gudalur for the requisite 75 years. They argued that such a conflation of land rights for Tamil repatriates with forest rights for advasis was inimical to the goal of adivasi sovereignty.⁹

Agricultural Labourers Organisation

Activists who work on issues of land and labour rights predominantly for Tamil repatriates formed a mass organisation in 1996. This organisation grew out of earlier movements such as the Tamil Nadu Front for Tribal Self-Rule (a wing of the National Front for Tribal Self Rule-- the movement that launched the campaign for the Panchayat (Extension to Scheduled Areas) Act of 1996 (PESA)). They also formed an integral part of the Campaign for Survival and Dignity (CSD) – the campaign that launched the nation-wide struggle for the FRA. Their primary aim has been to fight for land rights within the wider context of local self-governance in Gudalur.

Even prior to the passing of the FRA, this mass organisation formed village assemblies as a part of its attempt at political mobilisation at the grassroots level. After the FRA was passed, they facilitated the submission of individual and community claims through gram sabhas at the panchayat level. According to members of the group, only scheduled tribes (STs) and other traditional forest dwellers (OTFDs) submitted individual claims. Some gram sabhas filed community claims to forest lands.

As we mentioned earlier, many of those who were repatriated from Sri Lanka to work on estates did not have secure land titles even if they had acquired their own land. Thus, when the 1990 GOs¹⁰ were issued, they filed claims for land rights under these GOs. As a result of the non-implementation of the 1990 GOs, they instead focused their efforts on the FRA as a possible alternate way to claim land rights. This was done largely in terms of community claims. If a community claim was recognised, community rights would be vested with the gram sabha which could then permit members who were either ST or OTFD to exercise this right. While activists realised that this would entail a rejection of claims by Tamil repatriates (as they did not meet the residential requirements of the Act) they believed that filing claims would be useful in their fight for land rights as it would generate proof of residence, which was necessary in order to make any case for land rights.¹¹

Beyond the specific issue of securing the land rights of Tamil repatriates, this organisation worked in the interest of a larger political goal: taking back control of forests from the Forest Department to return them to local communities. In Gudalur, where there has been ambiguity in land classification due to the janmam system of land tenure, the Forest Department continues to actively attempt to claim land it deems forests (see later section). The bureaucratic mechanisms that facilitate such re-classification remain a mystery to people living in villages.

When land is re-classified it is brought to the attention of those who occupy it through the unwelcome presence of notice boards placed by the district administration, which, to villagers signifies that they will no longer be able to cultivate their lands or receive developmental benefits on these lands. In order to counter this, when a village is classified as forest, the organisation's activists erect boards declaring that the village has rights under the FRA. In doing this they are appropriating state tactics in an attempt to reassert people's rights.

These boards have been a matter of contention for the adivasi organisation and supportive NGOs. Their concern is that these boards are a misrepresentation, leading people (especially non-advasis) to believe that they can claim rights under the FRA when in fact they are not eligible to do so. They argue that the FRA provides only for the rights of STs and OTFDs and thus that placing these boards undermines and dilutes the value of the FRA by leaving room for false claims by non-advasis.¹²

We need to see this not just as an individualised concern, but rather, as a sentiment that is exacerbated by the larger concern that the traditional structures that existed within adivasi society, whether kinship or labour, are slowly being eroded through intermarriage, migratory work and modern education. There is a growing rate of inter-marriage between Tamils and advasis that is especially of concern to adivasi elders who perceive it as a form of cultural and material appropriation which contributes to the erosion of adivasi culture.

For the activists who put up the boards, however, the boards have different connotations and are contextualised within larger struggles that invoke their own, distinct political imaginary. They say that the Forest Department puts up boards declaring non-forest lands as forests even if people use these lands. Moreover, they also argue that if lands are to be declared as forests, a

settlement process must be undertaken which never happens. In other words, activists not only contest ownership of land but also what lands are forests and what lands are not forests.

Activists from Masinagudi

The third actor in our narrative - an informal group of activists, adivasi leaders, dalit members of the CPI(M) and small-scale farmers in the Masinagudi region used the FRA to challenge the constitution of a buffer zone to Mudumalai Tiger Reserve and the delineation of a wider elephant corridor. The notification to constitute the Mudumalai Tiger Reserve in 2007 was met with widespread resistance on the ground; on 30th December 2008, thousands of people took to the streets of Gudalur in protest against the proposed Tiger Reserve (Taghioff and Menon 2010). These activists were the main driver of these protests as they were residents of the region who were now facing the threat of eviction due to the constitution of a buffer zone. They used the FRA as a legal tool with which to challenge the constitution of the Tiger Reserve. As per the FRA, what is known as a 'Critical Tiger Habitat' may be constituted with the consent of the gram sabhas in the area. This group of local residents and activists argued that consent had, in fact, not been sought from them and that the FRA had not been implemented as yet. They constituted gram sabhas in the Masinagudi area that comprised both adivasis and non-adivasis, as per the definition prescribed in the Act. These gram sabhas then passed resolutions on 15th Aug 2008 against the declaration of the Tiger Reserve.¹³

The elephant corridor was declared as part of Project Elephant, a project launched in 2002 by the MoEF to undertake elephant conservation across the country.¹⁴ In 2008, conservationists in Gudalur filed a writ petition¹⁵ in the High Court of Madras seeking the eviction of 'encroachers' in an area proposed to be declared an elephant corridor. In 2010, the government followed this up by passing an order proposing to acquire a portion of the Sigur

plateau so as to create an elephant corridor. However, activists argued that the extent of land demarcated for the proposed corridor lacked scientific backing and that earlier expert reports had suggested a much smaller elephant corridor area.¹⁶

Without the FRA these activists would have had no legal basis on which to challenge the extension of the elephant corridor. When the Madras High Court issued orders permitting evictions in the proposed elephant corridor, these activists took the help of a lawyer in the Madras High Court to file a case challenging this, ¹⁷ citing the lack of implementation of the FRA. They were successful in preventing the evictions; their case has now been clubbed with the preceding case ¹⁸ in which conservationists in Gudalur called for evictions. Both these cases are now pending in the Supreme Court.

Defining Forests and Expanding the Forest Regime?

Before engaging in a more critical analysis of how the FRA as a form of governmentality has worked in Gudalur, it is first necessary to highlight the complexity of defining forests and forest dwellers given the complex history of state policy and land use change in Gudalur. This is the case because the forest governmentality regime in Gudalur that seeks to recognise adivasi rights and exclude those of others is premised on the notion that these others for the most part are not ‘traditional’ forest dwellers.

Gudalur’s dense malarial forests were opened up in the late nineteenth century with colonial zest, as mentioned above, first for coffee, then tea plantations, when the Nilambur Kovilagam leased out large tracts of land to wealthy British planters. The colonial state facilitated this burgeoning plantation economy through its taxation policies (Menon et al. 2013), and a forest lease regime (Krishnan 2009) was soon established. An enormous labour force was

required to clear these forests and transform them gradually into the uniform rows of well-pruned tea bushes interspersed with silver oak trees that still dominate the landscape today. And a veritable army of managers and *maistries* (Raman 2010; Menon et al. 2013)¹⁹ were engaged in the task of recruiting the requisite labour from the nearby plains.

Having transformed the forests into profit-making plantations using the labour of migrant workers, various wings of the state then intervened to reclaim this ‘forest’ land. The colonial bureaucracy, expressing its concern about deforestation, introduced the Madras Protection of Private Forest Act in 1949.²⁰ This was a means to not only regulate tree felling on private plantation lands but also to suggest, more fundamentally, that these lands were private forests as large portions of the estates were left ‘undeveloped’ (an official term for forested portions of leases (Krishnan 2009: 288)). Plantations and forests, therefore, became permeable categories.

In 1969, the post-colonial state passed the Gudalur Janmam Estates (Abolition and Conversion to Ryotwari) Act (henceforth the Janmam Abolition Act). Though ostensibly an act of agrarian reform, the Janmam Abolition Act was as concerned with delineating what it considered undeveloped forest land within estates so that the state could stake claim to these forests (Krishnan 2009). More than three decades later,²¹ on December 12th 1996, the Supreme Court had issued an interim order on the Godavarman case,²² a case that was filed by a member of the Nilambur Kovilagam family. The order not only extended the definition of forest to mean any land that conformed to the dictionary definition of forest, but also empowered the Forest Department to regulate the conversion of forest land into non-forest land, thereby bringing potentially all janmam lands that had no patta, within the ambit of Forest Department control. No non-forest activities were allowed on these janmam lands (Menon 2015).

In an ironic turn, the state that had encouraged the transformation of lands away from forests was now trying to reclaim these lands. Though the earlier intent to declare estate lands as private forests did not in practice lead to the usurpation of these lands by the Forest Department, it did highlight that boundaries between forest and non-forest lands were potentially blurred and that the demarcation of forest land was essentially a political act that could help the Forest Department take control over all 'remaining' forests, as was to legally happen when the Janmam Abolition Act was passed (the provisions of this Act were fundamentally directed towards vesting the control of the Janmam lands in the hands of the State, especially the Forest Department, by settling rights and offering compensation to landholders).²³ While the purported logic of giving control of all forest lands to the Forest Department was to empower it to prevent deforestation, it opened up a hornet's nest with regard to the boundaries between forests and non-forests and equally importantly what rights local people should have to these 'forests'. The state was undoubtedly concerned that large estates would continue to clear undeveloped lands. However, much of estate land had been 'encroached' upon by small farmers who often grew trees near their homestead.²⁴ Did this make them forest dwellers? Should they have title to this land?

In practice, the Godavarman judgement discouraged farmers from growing 'forest' trees on their land because there were so many rules that regulated the felling and transportation of such trees (Menon et al. 2013). The Janmam Abolition Act and the Supreme Court's Godavarman verdict, in other words, have had the effect of bringing the majority of land in Gudalur under stringent restrictions which do not necessarily correspond with preceding land-use patterns. Moreover, in 2011 there was a settlement process in which portions of Section 17²⁵

land were converted to Section 53 (i.e. Forest) under the Janmam Abolition Act.²⁶ People residing on these lands have complained that they were taken by surprise when they found notice boards on their land warning them that it has now been converted to forest land. Such problems were faced by both adivasis as non adivasis. In one Paniyan village, an elephant trench was dug by the Forest Department right in the middle of the village. While villagers were hopeful that the trench might prevent wild elephants from entering their hamlet at night, they also felt that positioning of the trench would allow the Forest Department to declare the land as reserved forest.²⁷

This reclamation of forest lands necessitated multiple spates of evictions. Gudalur's chequered history has made eviction from forest-land a particularly problematic and deeply politicized issue. Present-day Gudalur remains to a large extent in legal limbo due to the hiatus that ensued following the notification of the Janmam Abolition Act. Krishnan (2009) has argued that this legal limbo resulted in continued encroachment; however, it also resulted in evictions. In 2002, following the Godavarman judgement, forest-dwelling communities were evicted from janmam lands. As with previous evictions, this effort was met with massive public protest and the threat of violence. By now, farmers in Gudalur had become only too familiar with the threat of evictions²⁸ and the dangers of having their crops destroyed or their houses demolished by the Forest Department.

In addition to having their use of forest lands curtailed, communities in Gudalur have been denied their development rights. On 30th January, 1996, the District Collector 'cancelled all schemes and public works in reserved forests and Section 17 lands on the ground that Section 17 lands are forest lands' (Menon et al. 2013:468). Although this order was later revoked in 2007, in

practice, people living on these lands have still not been able to access basic developmental facilities such as roads, water, electricity and housing.

Governmentality and Subjectivities

Notwithstanding different actors using the FRA in Gudalur to undo what they consider historical injustices, from the perspective of the state the law must exercise its capacity to govern. The defining of forests, discussed above, is part of this process of governing. Having done this, the state's next objective was to filter, process and institutionalise rights discourses. Often, as Niezen (2010) has argued, the form governmentality takes and the rights that are bestowed on select actors occur through a process of 'norm diffusion' from supra-local levels; discourses of rights and identity make their way from the ivory towers of policy making into the everyday practices of communities through the law and its implementation. Commonly stated narratives of the FRA as a legislation that is undoing historical injustice (Sarin 2014) elide this performative role of law.

Central to the FRA as form of governmentality in Gudalur has been what Bose et al. (2012) call the 'politics of social identity'. Much has been written about the making of the adivasi identity in India (Xaxa 2005; Shah 2010; Prasad-Aleyamma 2014) and indigeneity at the global level (Niezen 2003). By virtue of being original inhabitants, ST communities are, by extension, also assumed to be the traditional and rightful inhabitants of the land who possess untold connections and a symbiotic relationship with forests. When the FRA was being drafted, there was outcry from environmentalists in India who argued that it would compromise conservation efforts. Publics²⁹(Niezen 2010) in favour of the Act strategically positioned themselves to counter such claims by projecting indigenous people as being natural

conservationists. As we highlighted earlier, in Gudalur the state in the form of the district collector passed a GO authorizing the establishment of adivasi-only gram sabhas. In the process, the FRA in Gudalur, at least officially speaking, was perceived of as a legislation for adivasis only.

While planning for the adivasi protest of December 2014 that we described in the introduction of this paper, an adivasi leader stressed that:³⁰

*“nA~nga kalAcAram Oda pOvOm, appo dhAn ava~ngalukku theriyum,
AdhivAsI makkal dhAn i~ndha pOrAttam nadatharA~nga,
illAti yenna vidhyAsam irukkum? nA~nga kalCARAM dress-u pOttu,
thudI sInar Oda pOvOm”*

(We will go with our culture, only then will people know that adivasis are doing this protest. Otherwise how will they make out any difference? We will wear our traditional dress and have our traditional musicians with us.)

Agrawal (2005) has argued that the state’s technologies of power result in the creation of environmental subjects. For these environmental subjects — as in the case of this protest — the invocation of a cultural identity can itself constitute a means of claim-making. This cultural identity, as illustrated above, is also emphasised by civil society groups that support these environmental subjects, in this case the adivasi subject.

Other actors however, resist, challenge and reinvent subjectivities of the natural conservationist by making counter-claims. For example, Krithivasan (2011) highlights how non-adivasis in the Masinagudi-Sigur area call themselves padivasis (half adivasi) so as to highlight that they too are local and protect the forests. This suggests that non-adivasis perceive that being adivasi is the main determinant of forest rights and hence the more they can highlight their similarities to adivasis the better the chance they have to get their rights recognised. Another

example of this is that of Tamil labourers in Gudalur, who are keen to emphasise their roots in Tamil Nadu rather than Sri Lanka. In a recent article for a Tamil political magazine,³¹ a Tamil activist referred to Tamil Nadu as ‘motherland’ as a means of staking claims to belonging. Similarly, Tamils choose to identify themselves as ‘Malaiyaga Tamizhar’ or ‘Upcountry Tamils’. The word ‘malai’ in Tamil means ‘mountain’ and so ‘Malaiyaga Tamizhar’ then becomes a variation on ‘Mountain People’- an identity denoting indigeneity. The agricultural labourer organisation in Gudalur has always emphasised that non-advasis and advasis face similar challenges and that identities should not divide them. Hence, while on the one hand Tamil peasants point out that they too are hill people, on the other hand, they have tried to stress the class similarities between advasis and non-advasis in Gudalur (Steir 2014).

However, despite counter-narratives of the environmental subject, it is the interpretation of the group of NGOs that has received sanction from the state bureaucracy. How does this come to be? If multiple actors have taken up and used the FRA in Gudalur, how does the state deem one group to be legitimate and not others? Li (2000) argues that an indigenous identity is articulated through the conjuncture of a number of factors including in-migration into indigenous frontiers and the development of capitalist relations. These factors had already coalesced in Gudalur to give rise to the articulation of an indigenous politics. The region has seen an efflorescence of NGOs of whose *raison d’etre* is the indigenous identity. It was in these circumstances that the FRA, as a law and policy that is predisposed towards treating advasis as good forest subjects, has lent itself to being utilised by this already existing politics of indigeneity.

This still begs the question - who is authorised to oversee the implementation process and why? What we have argued is that despite the fact that the Act has a prescribed set of committees

at different scales that are supposed to be in charge of vetting claims, this coalition of NGOs shaped the broader discourse on the Act. If, for example, the agricultural labour organisation had approached the district collector to pass an order sanctioning the gram sabhas constituted by them, would the collector have consented? Most likely not. As one Tamil estate labourer told us:³²

“The Forest Department knows that adivasis have rights.... They are afraid to do anything because then some big NGO will have words with their higher officials. But we do not have anyone like that”.

More significantly, what are the implications of this? What are the consequences of certain civil society/state allegiances assuming privileged positions? As Niezen (2010:58) argues, ‘the downside of cultural rights lobbying is especially to be found in dark corners and narrow alleys, among the dispossessed, where the public gaze is sightless or apathetic’. The Tamils in Gudalur who have been repatriated from Sri Lanka present one example of a people that have fallen between the cracks of belonging. When the tea economy was first emerging in Sri Lanka, consignments of labourers (many of them indentured) were shipped from rural Tamil Nadu to work on the newly-established plantations of erstwhile Ceylon, in what was a period of one of the largest migrations history has seen (Amrith 2013). These Tamils were refused citizenship in Sri Lanka and seem to have been significantly bypassed post-repatriation in regions such as Gudalur. As Niezen (2010:5 8) reminds us: ‘Refugees, asylum seekers and immigrants have difficulty representing suffering and a distinct way of life that resonates with justice activists or cultural preservationists, a situation that engenders vacuums or failures of remedy.’

The group of NGOs in Gudalur argue that, if non-advasis were to be on the gram sabha, locally specific hierarchies and power struggles will begin operating. Although this is a valid concern, we must take into consideration the existence of other marginalised actors. When broad categories such as adivasi and non-advasi are invoked, this has the effect of collapsing the multiple identities that exist and the possibility of other marginalisations. In other words, without invalidating the reality of adivasi marginalisation, we can perhaps seek a more nuanced understanding of what marginalisation entails, namely one that accounts also for people who may not be able to present themselves as a salve for our own, very modern, disenchantments but who are nevertheless enduring the afterlives of colonial mobilisations.

Conclusion

Although the FRA remains unimplemented in Tamil Nadu as a result of it being stuck in the courts,³³ the battles around the Act and who the entitled beneficiaries should be continues in Gudalur. While viewing the FRA as a form of governmentality is a useful conceptual entry point, we have argued that processes of governmentality need to be further problematised, paying attention not only to how both the population and forests are governed but equally to how different actors respond to the state's attempt to create new environmental subjects. Law, as an instrument of governmentality, we have argued is not an immutable category but rather a political instrument used by multiple groups with their distinct political identities to stake their various claims to the highly politicized 'forests' of Gudalur.

More specifically, we have highlighted how three sets of actors have used the FRA to stake claim to forests in Gudalur. The first is an adivasi organisation, supported by a set of NGOs. This coalition of actors argued that advasis are the only legitimate claimants of forest

rights in Gudalur as non-*adivasi* settlers who do not have title to their lands have not been there for 75 years. What we have also illustrated is that the state machinery endorsed this position by officially recognizing this coalition of NGOs and allowing for the constitution of *adivasi* only gram sabhas. This notwithstanding other actors challenged the official position and deployed their capacity for politics. One of these other actors was an agricultural labourer organisation composed of predominantly Tamils (but also others including *adivasis*) who were repatriated to Gudalur from Sri Lanka under the Sirimavo Sastri Pact. This organisation has used the FRA as a means to highlight the tenurial insecurity of many of its members, arguing that the state has not implemented prior GOs aimed at regularising encroachments. The third set of actors was a group of activists near Masinagudi concerned about the adverse consequences that the newly constituted Mudumalai Tiger Reserve would have. They used the FRA to highlight that the constitution of a tiger reserve was illegal since rights had not yet been admitted under the FRA.

Our purpose has not been to assess who the legitimate claimants are, but rather to highlight the multiple ‘genealogies of belonging’ of the different actors and the highly blurred boundaries of what constitutes forests and traditional forest dwellers. We did this by detailing the growth of the plantation economy and the patterns of in-migration to Gudalur as well as alluding to the complex history of *janmam* land tenure and land use in the region. By doing so we have suggested that processes of marginalisation in Gudalur are far more complex than a simple story of *adivasi* dispossession by accumulation. We suggest that a more nuanced formulation of marginalisation would account for those who fit into the indigenous box as well as those who do not fit neatly into narratives of modernity and its lacks or others (Argyrou 2005).

As we were completing this paper, news trickled in that the Chennai High Court has quashed ‘spurious’ claims to *janmam* forests. Some conservationists have welcomed this

decision. However, given the blurred boundaries between forests and non-forests, one wonders where this judgment will lead and what its implications will be for small farmers in Gudalur. Already, as we have argued in this paper, the politics of claim making around the FRA has led to solidified boundaries between communities along the lines of ethnic identity thereby militating against solidarity and collective organisation at the grassroots level. It is likely that this court decision will further solidify these divisions and that the implementation of the FRA, if and when it does take place, will produce a form of decentralisation that ignores the multiple genealogies of belonging and histories of marginalisation we have detailed.

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- ¹ Our use of the word adivasi as opposed to tribal is to respect the fact that many adivasis self-identify themselves as adivasi or ‘original inhabitants,’ and hence it is part of their political consciousness and mobilisation. We recognise, however, that adivasi and tribal are often used interchangeably and that as Li (2000) argues they are ‘mobile terms which have been reworked and inflected as they have traveled’ and often have context specific connotations.
- ² Titles have not yet been issued under the FRA in Gudalur due to an order from the Madras High Court which requires that a court appointed committee reviews claims before titles are issued.
- ³ The gram sabha is the primary body responsible for the implementation of the FRA at the village panchayat level.
- ⁴ Field notes, Gudalur, Tamil Nadu, May 2014.
- ⁵ Circular No. 13-1/90-FP of Government of India, Ministry of Environment & Forests, Department of Environment, Forests & Wildlife dated 18.9. 90 addressed to the Secretaries of Forest Departments of all States/Union Territories. FP (1) review of encroachments on forest land; FP (2) Review of disputed claims over forest land, arising out of forest settlement; FP (3) Disputes regarding pattas/ leases/ grants involving forest land; FP (4) Elimination of intermediaries and payment of fair wages to the labourers on forestry works; FP (5) Conversion of forest villages into revenue villages and settlement of other old habitations; and FP (6) Payment of compensation for loss of life and property due to predation/depredation by wild animals.
- ⁶ Field notes, Gudalur, Tamil Nadu, May 2014.
- ⁷ Internal documentation and field notes, Gudalur, Tamil Nadu, May 2014.
- ⁸ The Act prescribes a detailed procedure for claim-verification, which is to be carried out by a Forest Rights Committee (FRC), and dictates that tribals as well as Other Traditional Forest Dwellers must both be adequately represented in the FRC.
- ⁹ Field notes, Gudalur, Tamil Nadu, Jun 5th, May 12th 2014.
- ¹⁰ These were the circulars issued by the Ministry of Environment and Forests regularising pre-1980 settlements on forest lands.
- ¹¹ Field notes, Gudalur, Tamil Nadu, May 2014; Coimbatore, Tamil Nadu, May 29th 2014; email exchange Mar 20th 2015; internal documentation.
- ¹² Field notes, Gudalur, Tamil Nadu, May 2014.
- ¹³ Field notes, Gudalur, Tamil Nadu, May 2014.
- ¹⁴ Website of MoEFCC, GoI, Project Elephant <http://envfor.nic.in/division/introduction-4>.
- ¹⁵ In Defence of Environment and Animals vs. Principal Chief Conservator of Forests and Ors., WP 10098/2008.
- ¹⁶ Suchitra M (2012, June) Whose Corridor Is It? *Down to Earth*.
- ¹⁷ Writ Petitions 2762 and 2839 of 2009.
- ¹⁸ In Defence of Environment and Animals vs. Principal Chief Conservator of Forests and Ors., WP 10098/2008.
- ¹⁹ Foremen who act as subcontractors for labour forces.
- ²⁰ Later known as the Tamil Nadu Preservation of Private Forest Act (1949).

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- ²¹ Through this period the constitutional validity of the Act was challenged by planters and courts decided to invoke the protection of article 31 A of the constitution. In the legal hiatus that ensued, planters began to clear and cultivate even forested portions of leases (Krishnan 2009).
- ²² T.N. Godavarman Thirumalpad vs. Union of India & Ors , Writ Petition (C) 202 of 1995, Supreme Court of India.
- ²³ The Janmam Abolition Act provided for the provision of ryotwari patta to janmis and cultivators under Sections 8, 9 and 10 and sought to acquire the remaining uncultivated land under Sections 53 and 17.
- ²⁴ A number of migrant peasants and smallholders had encroached upon lands in the 70s and 80s, at the connivance of large plantation owners and the district administration (Krishnan 2009).
- ²⁵ Land that is classified under Section 17 continues to be disputed land which may be reclassified as forest.
- ²⁶ Interview with District Forest Officer, Nilgiris District; 16th Jun 2014.
- ²⁷ Field notes; Gudalur, Tamil Nadu Dec 2014.
- ²⁸ A significant instance of evictions becoming a publicly politicized issue was when a farmer who had been evicted from his lands self-immolated in 1978 (Adams 1989).
- ²⁹ ‘Publics are the abstract, invisible intended audiences of outreach engaged in by those with very tangible grievances’ (Niezen 2010:xi).
- ³⁰ Field notes, Gudalur, December 7th 2014
- ³¹ Theeranadhi, Kumudam, March 2015, pp. 2-8.
- ³² Fieldnotes; Gudalur, Tamil Nadu Nov 12th 2014
- ³³ The Chennai High Court has suspended titles from being issued prior to the approval of a court appointed committee in an order given on the Sambasivam case: V. Sambasivam v. Government of India, Writ Petition no. 4533/2002, Madras High Court, dated 30th April 2008.

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